

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

FEBRUARY 1998 SESSION

FILED
March 19, 1998
Cecil Crowson, Jr.
Appellate Court Clerk

RICKY L. SAMMARTINO,)
)
 APPELLANT,)
)
 v.)
)
 STATE OF TENNESSEE,)
)
 APPELLEE.)

No. 02-C-01-9701-CC-00040

Dyer County

Honorable Joe G. Riley, Judge

(Post-Conviction Relief)

FOR THE APPELLANT:

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OPINION FILED: _____

AFFIRMED PURSUANT TO RULE 20

Joe B. Jones, Presiding Judge

OPINION

The appellant, Ricky L. Sammartino (petitioner), appeals as of right from a judgment of the trial court dismissing his post-conviction action after an evidentiary hearing. The trial court found the petitioner was afforded the effective assistance of counsel guaranteed by the United States and Tennessee Constitutions, and his pleas of guilty passed constitutional muster. The petitioner presents two issues for review. He contends (a) “the trial court erred in holding that the Appellant received the effective assistance of counsel,” and (b) “the trial court erred in holding that the Petitioner voluntarily entered a plea of guilty.” After a thorough review of the record, the briefs submitted by the parties, and the law governing the issues presented for review, it is the opinion of this court that the judgment of the trial court should be affirmed pursuant to Rule 20, Tennessee Court of Criminal Appeals.

The petitioner and defense counsel testified at the evidentiary hearing. Their respective testimony conflicted as to every material issue and fact. It is evident the court accredited the testimony of defense counsel thereby rejecting the testimony given by the petitioner. Thus, the evidence contained in the record does not preponderate against the findings of fact made by the trial court.

JOE B. JONES, PRESIDING JUDGE

CONCUR:

JOHN H. PEAY, JUDGE

THOMAS T. WOODALL, JUDGE